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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/935,088	08/22/2001	Eugenio Go Varona	14729	9335

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/935,088

Applicant(s)

VARONA, EUGENIO GO

Examiner

Jeremy R. Pierce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2,3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the product comprises "a mixture of fibers, binder in an amount of between 1 and 6 weight percent, and superabsorbent in an amount between 1 and 80 weight percent." The claim, on its face, seems to read that the product comprises between 1 and 6 weight percent of binder and between 1 and 80 weight percent of superabsorbent, with the remaining weight percent being fibers. However, the specification seems to indicate the weight percentages of the binder and superabsorbent are based on the weight of the fibers before addition to the product (page 12, line 22 –page 13, line 4). The claim is indefinite because it is unclear whether the weight percentages relate to the total weight of the entire product or are comparative to other ingredients (fibers) in the web. Claim 15 has a similar problem in reciting a weight percent of binder alone.

### ***Claim Rejections - 35 USC § 102***

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3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 9-13, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Tanzer et al. (U.S. Patent No. 5,562,645).

Tanzer et al. disclose a fibrous absorbent material that contains not more than 5 weight percent of binder material and superabsorbent polymer (column 16, lines 28-37). The superabsorbent particles can be arranged in separate discrete pockets (column 18, lines 43-46). The superabsorbent particles may be present in an amount of 40% by weight (column 22, line 4).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7, 8, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al.

Tanzer et al. do not disclose the volume of the pockets. The size of the pockets would be a result effective variable that would alter the ability of the fibrous material to retain superabsorbent material, thus affecting the absorbent capabilities. It would have

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been obvious to one having ordinary skill in the art to make the pockets between 0.5 and 5 cubic millimeters, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Tanzer et al. also do not disclose permeability for the product. Permeability is also a result effective variable that affects the ability of the web to allow liquid to migrate through it. It would have been obvious to one having ordinary skill in the art to construct the material of Tanzer et al. with a permeability of at least 2000 darcys since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

7. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanzer et al. in view of Shohji et al. (U.S. Patent No. 5,549,964).

Tanzer et al. do not disclose electret treatment of the web. Shohji et al. teach that absorbent garments may undergo an electret treatment to improve filtering (column 9, lines 60-62). It would be obvious to a person having ordinary skill in the art to provide an electret treatment to the material of Tanzer et al. in order to improve filtering, as taught by Shohji et al.

### **Conclusion**

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: U.S. Patent No. 4,055,180 to Karami and U.S. Patent No. 6,429,350 to Tanzer et al.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce  
Examiner  
Art Unit 1771

June 4, 2003

  
ELIZABETH M. COLE  
PRIMARY EXAMINER